



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

December 17, 2014

Memorandum for: Deputy Commissioner, Trials

Re: **Lieutenant John Bucci**
Tax Registry No. 903081
Housing Police Service Area 1
Disciplinary Case No. 2013-8879

The above named member of the service appeared before Assistant Deputy Commissioner Amy J. Porter on May 14, 2014 and was charged with the following:

DISCIPLINARY CASE NO. 2013-8879

1. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty, on or about November 27, 2012, in Bronx County, after having been directed by New York City Police Lieutenant Alfred Batelli, 40th Precinct Operations Coordinator, through written notification process, to take a marked Department van to Breezy Point, Rockaways for Hurricane Relief Detail, wrongfully did fail and neglect to comply with said directive and took four (4) Department Radio Marked Patrol Vehicles, resulting in the depletion of Command resources.

P.G. 203-03, Page 1, Paragraph 2

**COMPLIANCE WITH ORDERS,
GENERAL REGULATIONS**

2. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty as the Platoon Commander, on or about December 13, 2012, in Bronx County, wrongfully failed and neglected to notify the 40th Precinct's Commanding Officer and Executive Officer of a motor vehicle accident with fatalities within the confines of the 40th Precinct.

P.G. 202-13, Page 1, Paragraph 6

**DUTIES AND
RESPONSIBILITIES,
LIEUTENANT - PLATOON
COMMANDER**

3. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty, as the Platoon Commander, on or about December 16, 2012, in Bronx County, wrongfully failed and neglected to notify the 40th Precinct's Commanding Officer and Executive Officer of two (2) injured Members of the Service at a four (4) alarm fire within the confines of the 40th Precinct.

P.G. 202-13, Page 1, Paragraph 6

**DUTIES AND
RESPONSIBILITIES,
LIEUTENANT - PLATOON
COMMANDER**

4. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty, assigned as the Desk Officer, on or about January 14, 2013, inside of the 40th Precinct, failed and neglected to make required roll call adjustments, to wit: said Lieutenant Bucci failed to adjust the 2nd Platoon roll call to note the names of 3rd Platoon police officers attending criminal court.

P.G. 202-14, Page 2, Paragraph 10

DESK OFFICER

5. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty, between January 7, 2013 through January 14, 2013, in Bronx County, after having been directed by New York City Captain Martine Materasso to complete daily safety check points at the corner of East 138th Street and St. Anns Avenue, in Bronx County, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2

**COMPLIANCE WITH ORDERS,
GENERAL REGULATIONS**

In a Memorandum dated October 7, 2014, Assistant Deputy Commissioner Amy J. Porter found the Respondent Guilty of Specification Nos. 1, 2, 3, and 5, and Guilty in Part of Specification No. 4 in Disciplinary Case No. 2013-8879. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of issues and circumstances in this matter and deem that the combined misconduct warrants a greater penalty. Therefore, the Respondent is to forfeit ten (10) vacation days, as a disciplinary penalty.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

October 7, 2014

MEMORANDUM FOR: Police Commissioner

Re: Lieutenant John Bucci
Tax Registry No. 903081
Housing Police Service Area 1
Disciplinary Case No. 2013-8879

The above-named member of the Department appeared before me on May 14, 2014, charged with the following:

1. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty, on or about November 27, 2012, in Bronx County, after having been directed by New York City Police Lieutenant Alfred Batelli, 40th Precinct Operations Coordinator, through written notification process, to take a marked Department van to Breezy Point, Rockaways for Hurricane Relief Detail, wrongfully did fail and neglect to comply with said directive and took four (4) Department Radio Marked Patrol Vehicles, resulting in the depletion of Command resources.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS
GENERAL REGULATIONS

2. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty as the Platoon Commander, on or about December 13, 2012, in Bronx County, wrongfully failed and neglected to notify the 40th Precinct's Commanding Officer and Executive Officer of a motor vehicle accident with fatalities within the confines of the 40th Precinct.

P.G. 202-13, Page 1, Paragraph 6 – DUTIES AND RESPONSIBILITIES
LIEUTENANT – PLATOON COMMANDER

3. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on duty, as the Platoon Commander, on or about December 16, 2012, in Bronx County, wrongfully failed and neglected to notify the 40th Precinct's Commanding Officer and Executive Officer of two (2) injured Members of Service at a four (4) alarm fire within the confines of the 40th Precinct.

P.G. 202-13, Page 1, Paragraph 6 – DUTIES AND RESPONSIBILITIES
LIEUTENANT – PLATOON COMMANDER

4. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty, assigned as the Desk Officer, on or about January 14, 2013, inside of the 40th Precinct, failed and neglected to make required roll call adjustments, to wit: said Lieutenant Bucci failed to adjust the 2nd Platoon roll call to note the names of 3rd Platoon police officers attending criminal court.

P.G. 202-14, Page 2, Paragraph 10 – DESK OFFICER

5. Said Lieutenant John Bucci, while assigned to the 40th Precinct, while on-duty, between January 7, 2013 through January 14, 2013, in Bronx County, after having been directed by New York City Police Captain Martine Materasso to complete daily safety check points at the corner of East 138th Street and St. Anns Avenue, in Bronx County, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS
GENERAL REGULATIONS

The Department was represented by Marissa Gillespie, Esq., Department Advocate's Office, and Respondent was represented by Michael LaCondi, Esq.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty in Specification Nos. 1, 2, 3, 5 and Guilty in Part in No. 4.

FINDINGS AND ANALYSISSpecification No. 1

Respondent has been charged with failing to comply with a written directive where, instead of taking a Department van as instructed, he took four radio motor patrol (RMP) vehicles to the Hurricane Sandy Detail (Detail).

This incident occurred during the aftermath of Hurricane Sandy. Additional police officers from many precincts were sent to the confines of the 100 Precinct in Far Rockaway, County of Queens, to aid in the relief effort.

On November 27, 2012, the administrative lieutenant instructed Respondent by Department notification to report to the Detail at 4:00 a.m. "with van." See Department's Exhibit (DX) 1. Instead, Respondent took four vehicles with him to the Detail.

Respondent took four vehicles because, he maintained, as a supervisor, he is entitled to take his own vehicle. Respondent contended that, according to the Roll Call and the Daily Vehicle Assignment Sheet (DVAS), there was not a shortage of RMPs in the precinct, and all the posts on the second platoon were covered. The DVAS indicates the number of RMPs available for each tour. See Respondent's Exhibit (RX) A.

Inspector Christopher McCormack, the Commanding Officer of the 40 Precinct, and Captain Martine Materasso, the Executive Officer, were Respondent's supervisors. Their testimonies were similar. They both testified that Respondent was neither permitted nor authorized to take four vehicles or change the mode of transportation. They stated that Respondent was given a standard Department notification which clearly

indicated that he had to take a van. They further testified that for a supervisor to take multiple RMPs to any detail instead of a van is very unusual because it is customary to take a van. Typically, for details such as this one, a supervisor is instructed to take a van with eight police officers, or the conventional "one and eight," which stands for one supervisor and eight officers.

Additionally, the 40 Precinct had received 60 additional officers to aid in the Hurricane Sandy relief efforts. McCormack and Materasso also testified that because Respondent had taken four vehicles to the Detail, the precinct had extra officers available but no vehicles for them to use. Thus, the radio dispatcher was holding numerous jobs.

The Court finds that Respondent failed to follow the written directive. Respondent was given a standard Department written notification which is a well established procedure. Respondent's unauthorized taking of four vehicles to the Detail resulted in a depletion of precinct resources which could have seriously impacted Department response time to an emergency. Having served the Department for more than 20 years, and as a lieutenant, Respondent should have known that he was only permitted to take a van, as is customary when assigned to details. Respondent's notification was clear and unequivocal. Respondent offered no persuasive evidence to indicate that he had permission to take four vehicles instead of a single van.

Accordingly, Respondent is found Guilty of Specification No. 1.

Specification No. 2

Respondent is charged with failing to notify his Commanding Officer and Executive Officer of a fatal motor vehicle accident.

On December 13, 2012, Respondent was assigned as the platoon commander for the second platoon (6:50 a.m. to 3:35 p.m.). Some time around 2:00 p.m., Respondent learned about a motor vehicle accident where a vehicle struck and killed a pedestrian at the intersection of East 138 Street and St. Anns Avenue in Bronx County. The accident had occurred at about 1:35 p.m. At about 2:00 p.m., Respondent arrived at the scene of the accident. There he spoke to the patrol supervisor, who was already at the scene. McCormack and Materasso were Respondent's supervisors.

McCormack and Materasso testified about the following facts. On December 13, 2012, they were in a regularly scheduled Commanding Officer's meeting. McCormack regularly held Commanding Officer's meetings which required the attendance of all supervisors. The meeting started at about 2:00 p.m. Respondent was not at the meeting and neither McCormack nor Materasso had received any notification as to why he was not there.

At about 2:30 p.m. McCormack received a phone call from the Patrol Borough Bronx (Borough) inquiring about an "aided" on East 138 Street and St. Anns Avenue. McCormack was not aware of an incident on East 138 Street but was told about it by the Borough. McCormack testified that he was "embarrassed" because, as the Commanding Officer of the precinct, he should have been notified about this important occurrence and should have been able to provide the Borough with answers. McCormack then directed Materasso to respond to the scene of the accident. When Materasso arrived, she believed

that the scene had been going on for "quite a while" and asked why Respondent had not notified them. Respondent agreed that he was supposed to advise the Commanding/Executive Officers of unusual occurrences, under *Patrol Guide* § 202-13 para. 6. McCormack subsequently instructed Respondent about his failure to notify.

Respondent testified that, after he came to the scene and conferred with the patrol supervisor who was already on the scene, "As far as I knew, the notifications were being made." He did not remember if he called or sent a text message to notify either McCormack or Materasso about the accident. He stated that the Borough, Operations Unit, and the Accident Investigation Squad were aware of the incident. Respondent assumed that because Materasso responded to the scene in a short period that she had already been notified. Respondent said that he had notified McCormack in the past about serious crimes and matters of importance.

Patrol Guide 202-13 instructs the lieutenant platoon commander to advise the Commanding/Executive Officers on matters of importance and unusual occurrences. A fatal vehicle accident is an unusual occurrence and warrants notifications to the Commanding/Executive Officers. Here, Respondent did not offer any evidence that he notified Materasso or McCormack about the accident. Respondent assumed that notifications were already being made, probably by the patrol supervisor. Whether or not notifications were made by others, it was Respondent's duty to make the necessary notifications.

Respondent arrived at the scene at 2:00 p.m. and McCormack was notified by the Borough at 2:30 p.m. Thus, Respondent had about 30 minutes to notify Materasso or

McCormack about the incident. Respondent had notified McCormack by text message in the past and could have easily done so within 30 minutes.

Although Respondent assumed Materasso was already notified about the accident because she had arrived at the scene, he nonetheless failed to follow the *Patrol Guide* and did not notify his Commanding/Executive Officers. Regardless of whether his Commanding/Executive Officers were ultimately notified by the Borough, Respondent was required to notify them upon arriving at the scene. Accordingly, Respondent is found Guilty of Specification No. 2.

Specification No. 3

Respondent is charged with failing to notify his Commanding Officer and Executive Officer of two injured police officers at the scene of a four-alarm fire.

On December 16, 2012, Respondent was assigned as the platoon commander. At some point during his tour, Respondent went to the scene of a four-alarm fire. As the lieutenant platoon commander, he was the ranking officer in charge of the scene. As a result of the fire, two police officers suffered from smoke inhalation during the evacuation of a building. The officers then drove themselves to Lincoln Hospital where they were treated and released. They did not report sick on this day or the next day. Line-of-duty injury paperwork was prepared for both officers and signed by Materasso. Respondent admitted that he did not notify McCormack or Materasso about the two injured officers.

Respondent testified that while he was at the scene of the fire, he sent a text message to McCormack. He texted McCormack, "[I]n sum and substance, there's a four-

alarm fire in your command and that there are no injuries to the residents.” He said McCormack replied with his “standard reply:” “thanks.”

Respondent admitted that he did not send a follow up text message to notify McCormack about the injured officers. In his defense, Respondent said he made the “standard” notifications to the Borough, Operations Unit and the Duty Captain. Respondent also stressed that he notified McCormack about the fire, even though McCormack was not working that day.

Although Respondent agreed that McCormack wanted to be notified whether he was on or off-duty, Respondent explained that notifications would depend on the incident. If the incident involved one of the seven major index crimes, or an incident “where it would raise it to a certain level,” then he would notify McCormack.

McCormack said, he was told about this incident by the Borough, when he returned to work the next day. McCormack testified he had to speak to Respondent about it. Materasso testified that she was also not notified about the incident.

As iterated in Specification No. 2, *Patrol Guide* 202-13 requires the lieutenant platoon commander to make necessary notifications. The record established that two injured police officers checking themselves into the hospital is an unusual occurrence and a matter of importance. The circumstances surrounding the officers’ injuries—their treatment and release from the hospital and preparation of line-of-duty injury paperwork—mandate a notification to superiors.

Accordingly, Respondent is found Guilty of Specification No. 3:

Specification No. 4

Respondent has been charged with failing to adjust the second platoon roll call to note the names of third platoon officers attending court.

On January 14, 2013, Respondent was assigned as the desk officer on the second platoon. Desk officers have a duty to account for all police officers working on their platoon by recording their presence on the roll call. At some point during the second platoon, Materasso inspected the roll call and noticed that the name of Police Officer Ramirez, who was working on the second platoon, was omitted. See DX 2. Officer Ramirez was assigned to the third platoon. However, because Ramirez was scheduled to appear at court, he was assigned to the second platoon on January 14, 2013. When Materasso asked Respondent why Ramirez's name was omitted from the roll call, Respondent admitted that he failed to adjust the roll call to reflect Ramirez's name on the second platoon, and that it was "oversight" on his part.

Respondent's own testimony established that he failed to adjust the roll call to reflect Ramirez's name on the second platoon roll call. The Advocate admitted in her closing that she was only able to demonstrate that no more than one name was missing from the roll call. Because the evidence established that only one officer's name was omitted from the roll call, Respondent is found Guilty in part on Specification No. 4.

Specification No. 5

Respondent is charged with failing to comply with a directive ordering him to complete daily safety checkpoints during a one-week period.

Respondent was assigned as the lieutenant platoon commander. The intersection of East 138 Street and St. Anns Avenue was designated as an accident prone location as a result of many accidents between pedestrians and motor vehicles.¹

McCormack testified that he personally instructed Respondent to conduct a “reasonable amount” of vehicle safety check points, at the intersection of East 138 Street and St. Anns Avenue, between January 7, 2013 and January 14, 2013. He defined “reasonable amount” as one or two per tour. He said Respondent did not conduct any safety check points during the one-week period.

Materasso testified that she instructed all of her platoon commanders to conduct two safety checkpoints per week, “at a time that was good for the supervisors and officers,” between January 7, 2013 and January 14, 2013. Supervisors completing the checkpoints would submit a form to Materasso indicating the date, time, names of the officers present, and what enforcement action was taken during the checkpoints. Toward the end of the week she discovered that she did not receive any forms from Respondent’s platoon so she directed Sergeant Lau, a supervisor on the second platoon, to conduct two checkpoints. She stated that Respondent had not conducted any checkpoints.

When she confronted Respondent, he told her that Sergeant Lau had conducted two checkpoints already. Materasso told Respondent that Sergeant Lau conducted the checkpoints because she (Materasso) ordered him (Lau) to do it.

¹ In fact, this is the same location of the fatal vehicle accident that Respondent had responded to on December 13, 2012. (See Specification No. 2).

Respondent denied ever having been directed to conduct vehicle safety checkpoints by McCormack or Materasso. However, Respondent did admit that during a commanding officer's meeting, Materasso told "all supervisors" to conduct checkpoints. But Respondent claimed that they were told that they had 28 days to conduct the checkpoints, not just a week. He also indicated that Sergeant Lau, a member of his platoon, conducted the checkpoints.

This Court has determined that Respondent was given a directive and failed to comply with it. Both Materasso and McCormack credibly testified that they directed Respondent to conduct the checkpoints during the one-week period. The Court was unable to discern a motive for Materasso and McCormack to fabricate the one-week time period for conducting the checkpoints. As Respondent admitted, the supervisors were instructed to conduct the checkpoints. Therefore, Respondent, as a supervisor, was ordered to conduct the checkpoints.

Respondent's assertion that Sergeant Lau had already conducted a checkpoint for the second platoon does not exonerate Respondent. As a lieutenant platoon commander, Respondent was the ranking supervisor in his platoon and therefore had the responsibility to ensure that someone in his platoon conducted the checkpoints. Because he failed to direct someone to conduct the checkpoints, Materasso then had to do so. If Respondent failed to ensure the checkpoints were conducted, then he failed to conduct them.

Accordingly, Respondent is found Guilty of Specification No. 5.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974).

Respondent was appointed to the Department on August 30, 1993. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

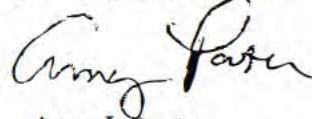
The Advocate recommended a penalty of 10 vacation days for the misconduct alleged in five Specifications. Respondent was found Guilty of Specification Nos. 1, 2, 3, 5 and Guilty in part of Specification No. 4. Respondent is found guilty of failing to comply with a written directive, failing to notify his commanding officer and executive officer on two different occasions, on one occasion about a car accident with fatalities and another time about two officers being injured, and failing to conduct safety checks as ordered by his commanding officer. When taken together, these separate specifications reflect a pattern of disregard for the orders of his superiors.

However, as Respondent's attorney argued, each of these specifications when looked at individually merit only a command discipline. Specification No. 4 by itself is a charge that would ordinarily never come before this Court.

While some of Respondent's reasons for his actions did not excuse him from guilt, they provided mitigation. In Specification No. 3, Respondent explained that the injuries to the police officers were not serious as they were able to drive themselves to the hospital. In Specification No. 5, the required patrol was covered by another officer. In all of the specifications, there were no serious consequences to the lieutenant's misconduct.

Moreover, Respondent has been a member of the Department for 21 years and has not been the subject of prior formal disciplinary proceeding. Considering Respondent's overall history with the Department in conjunction with the minor nature of the charges, it is recommended that Respondent forfeit seven vacation days.

Respectfully submitted,



Amy J. Porter
Assistant Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner -- Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
LIEUTENANT JOHN BUCCI
TAX REGISTRY NO. 903081
DISCIPLINARY CASE NO. 2013-8879

Respondent's last three annual evaluations were as follows: he received an overall rating of 2.5 "Below Competent" in 2013, a 3.5 "Highly Competent/Competent" in 2012, and a 4.0 "Highly Competent" in 2011. He has two medals for Excellent Police Duty and two medals for Meritorious Police Duty. [REDACTED]

[REDACTED] He has no prior formal disciplinary record.

For your consideration.



Amy J. Porter
Assistant Deputy Commissioner Trials